

REMARKS

With entry of this Amendment, claims 35-57 are pending in the application. By this Amendment, claims 35, 36, 38, and 42 have been amended, and claims 52-57 have been withdrawn, for clarity and without prejudice, to conform the claims to the Restriction Requirement imposed by the Office. These amendments, and the related withdrawal of claims 52-57, are presented with traverse to advance allowance of certain aspects of the invention.

Restriction Requirement

The Restriction Requirement presented by the Office sets forth the following three (3) groups of claims which are allegedly not so linked as to form a single general inventive concept under PCT Rule 13.1.

I. Group I -- Claims 35-39, 42 and 51, drawn to a method of treating an LPL-responsive disease in a subject comprising administering an LPL S447X therapeutic, wherein the LPL S447X therapeutic is a polypeptide.

II. Group II -- Claims 35-41 and 43-51, drawn to a method of treating an LPL-responsive disease in a subject comprising administering an LPL S447X therapeutic, wherein the LPL S447X therapeutic is a nucleic acid.

III. Group III -- Claims 52-57, drawn to a gene therapy vector comprising a nucleic acid encoding an LPL S447X protein.

The Restriction Requirement also asserts that “each of the LPL-responsive diseases set forth in claims 36 and 37 have distinct etiology and progression which, absent evidence or clear admission to the contrary, would dictate unique method steps not comprised in the method of treating other LPL-responsive diseases.” This assertion is interpreted as a further Restriction Requirement, as opposed to a species election requirement, in accordance with the text of the Office Action.

Applicants hereby elect Group II consisting of previously presented claims 35-41, and 43-51, and claim 42 (amended herein to conform to the Restriction Requirement), as well as the exemplary LPL-responsive disease “hyperlipidemia”, for prosecution at this time. This election is made with traverse, and no representations are made by this election concerning the merits of the Restriction Requirement with respect to the possible existence of multiple distinct inventions among the originally presented claims.

Applicants reserve the right to pursue the subject matter of all non-elected claims and/or subject matter withdrawn from prosecution by this Amendment in one or more related applications.

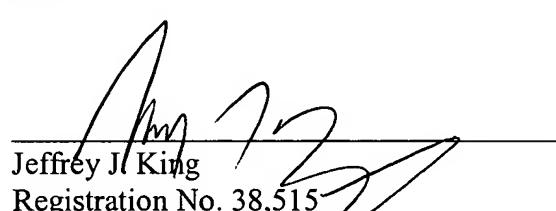
The Office is respectfully urged to reconsider the Restriction Requirement on the basis that it would not present an undue burden on the Office to search all of the previously-presented claims—to conduct a more coordinate and efficient prosecution.

In addition, with respect to the target diseases/disorders amenable to treatment within the subject methods, Applicants note that the elected disease “hyperlipidemia”, although recognized in the art as a well-defined condition, in fact embraces by a shared etiological component of LPL deficiency the collective group of diseases/disorders specified as “hyperlipidemia, partial LPL deficiency, hypertriglyceridemia, and hypoalphalipoproteinemia (low HDL- cholesterol), as described in the specification. In addition, all of the diseases identified in the specification and previously-presented claims are linked by virtue of this etiological component of LPL deficiency, and are therefore collectively amenable to treatment by common methods specified herein. Accordingly, withdrawal of at least the aspect of the Restriction Requirement directed to alleged distinctions among target diseases is respectfully requested. Alternatively, consideration of this restriction as a species election requirement, with the opportunity to rejoin non-elected diseases/disorders upon a finding of allowability of methods for treating hyperlipidemia, is earnestly solicited.

Applications respectfully submit that the pending elected claims, as amended herein, are in condition for allowance.

Respectfully submitted,

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Jeffrey J. King
Registration No. 38,515
Graybeal Jackson Haley LLP
155 - 108th Avenue N.E., Suite 350
Bellevue, WA 98004-5901
(425) 455-5575